

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 11-20315

v.

Hon. R. Steven Whalen
U.S. Magistrate Judge

KARL HERRINGTON,

Defendant.

ORDER FOR COMPETENCY
EXAMINATION OF DEFENDANT

The defendant appeared for arraignment on May 25, 2011 without counsel. He appeared to not understand his right to be represented by either retained counsel, or if he qualified financially, court-appointed counsel. He appeared to not understand the nature of the charges against him or the legal processes through which those charges are resolved. He was unable to answer even the simplest, yes-or-no questions with anything other than non sequiturs. The Court ordered him temporarily detained until May 26, 2011, setting that date for the completion of arraignment and for a detention hearing. On May 26th, the defendant's conduct reinforced the Court's belief that he may not be mentally competent to proceed.

The Court therefore finds that there is reasonable cause to believe that defendant KARL HERRINGTON may presently be suffering from a mental disease or defect rendering him mentally incompetent to stand trial. Accordingly, pursuant to the Insanity Defense Reform Act of 1984, 18 U.S.C. §§ 4241-4247, **IT IS HEREBY ORDERED:**

That a psychiatrist or psychologist, whether employed by the United States or otherwise, be appointed, authorized, and directed to examine the mental condition of defendant, *see id.* §§ 4241(a), (b), 4247(b); and that said psychiatrist or psychologist be granted access to the defendant's current medical treatment information;

That defendant be committed to the custody of the Attorney General for a period not to exceed 30 days, and that he be held in custody at a facility in the Eastern District of Michigan, where such psychiatric or psychological examination may be

performed, *see id.* § 4247(b).¹ The defendant may be housed at any facility that houses federal pretrial detainees in the Eastern District, including the Federal Detention Center in Milan, Michigan or the Wayne County Jail. The psychiatrist or psychologist appointed to conduct the examination and evaluation shall be permitted access to the facility as necessary to interview and/or examine the defendant.

That the U.S. Marshals Service transport defendant to and from the facility;

That the examining psychiatrist or psychologist prepare, as soon as practical, a written report that includes (1) the defendant's history and present symptoms; (2) a description of the psychiatric, psychological, and medical tests that were employed and their results; (3) the examiner's findings; and (4) the examiner's opinions as to diagnosis, prognosis, and whether the defendant is suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense;

That the examiner promptly file the written report with this Court and provide copies of the report to defense counsel and the attorney for the government, *see id.* § 4247(c); and

That the period beginning with this Court's order for competency examination, and ending with the conclusion of the competency hearing, *see id.* §§ 4241(c), 4247(d), which will take place after the Court and parties receive the examiner's written report, be deemed excludable delay under the Speedy Trial Act pursuant to 18 U.S.C. §§3161(h)(1)(F) and (h)(1)(A), and that the period beginning the day after the conclusion of the competency hearing and ending with the Court's ruling on defendant's mental competency or with the lapse of 30 days, whichever occurs first, be deemed excludable delay pursuant to 18 U.S.C. § 3161(h)(1)(J).

That, pursuant to 18 U.S.C. § 4247(d), the Federal Defender Office is appointed to represent the defendant at competency proceedings.

IT IS SO ORDERED.

s/R. Steven Whalen
R. Steven Whalen
U.S. Magistrate Judge

Dated: May 26, 2011

¹ Under § 4247(b), the director of the designated facility may apply for a reasonable extension, not to exceed 15 days, upon a showing of good cause that additional time is necessary to observe and evaluate the defendant.